

MINUTES

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT

Thursday, January 15, 1998

DIVISION ONE

**A076158 -- The People v. Carl Unguran.**

The judgment is affirmed. Swager, J. We concur: Stein, Acting P.J.,  
Dossee, J. (Not for Publication.)

**A079850 -- In re Christopher L., a Person Coming Under the Juvenile  
Court Law.**

The judgment is affirmed. Swager, J. We concur: Stein, Acting P.J.,  
Dossee, J. (Not for Publication.)

DIVISION TWO

**A071519 -- In re Tameka C., a Person Coming Under the Juvenile  
Court Law.**

The judgment of conviction and sentence are affirmed. Ruvolo, J. I  
concur: Lambden, J. See concurring and dissenting opinion of Kline, P.J.  
(Certified for Publication.)

**A075210 -- In re Carlos V., a Person Coming Under the Juvenile Court  
Law.**

**A075119 -- In re Jesus T., a Person Coming Under the Juvenile Court  
Law.**

The judgments are affirmed. Lambden, J. We concur: Kline, P.J., Ruvolo,  
J. (Not for Publication.)

Thursday, January 15, 1998 (continued)

**A075396 -- National General Insurance Company v. Joseph P. Rhode et al.**

We reverse the judgment and remand the cause with directions to the trial court to hold a hearing to consider further evidence on the receipt and acceptance of the lowered premium and/or extrinsic evidence on the meaning of the computer printout and the agreement to delete Lindsey from coverage and to rule on this matter consistent with the conclusions reached in this opinion. No party is awarded costs. Lambden, J. We concur: Haerle, Acting P.J., Ruvolo, J. (Not for Publication.)

**A075677 -- University of Northern California v. Y. King Liu, an individual, dba Northern California University at Marin, dba University of Northern California at Marin, a California Corporation.**

For the foregoing reasons, the judgment is affirmed. Respondent shall recover costs on appeal. Kline, P.J., We concur: Haerle, J., Ruvolo, J. (Not for Publication.)

**A081267 -- Michael R. Fried v. Appellate Department of the Superior Court of San Mateo County, August Puglia, et al., R.P.I.**

By The Court: The petition for writ of mandate/review is denied. Kline, P.J.

**DIVISION THREE**

**A076816 -- The People v. Michael P. Jack.**

Order Certifying Opinion for Publication; The Court: The opinion in the above entitled matter filed on December 22, 1997, was not certified for publication in the Official Reports. For good cause it now appears that the opinion should be published in the Official Reports and it is so ordered. Phelan, P.J. (Certified for Publication.)

Thursday, January 15, 1998 (continued)

**A080419 -- Renee C., v. The Superior Court of Solano County, Solano County Health and Social Services Department, R.P.I.**

The petition for extraordinary relief is denied on the merits. (See Cal. Const., art. VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888, 894; *Bay Development, Ltd., v. Superior Court* (1990) 50 Cal.3d 1012, 1024.) Our decision is final in this court immediately. Phelan, P.J. We concur: Corrigan, J., Parrilli, J. (Not for Publication.)

DIVISION FOUR

**A077750 -- Judy A. McPherson v. Raymond C. Gilmore.**

By The Court: The third sentence of the first paragraph on page 1 of the opinion filed herein on December 18, 1997, is modified to read as follows: (See Order) This modification does not effect a change in the judgment. Hanlon, P.J. (Not for Publication.)

**A078936 -- Chul Mo Kim v. Ki Tae Kim.**

We affirm the judgment. Reardon, J. We concur: Hanlon, P.J., Poché, J. (Not for Publication.)

**A079198 -- The People v. Guillermo Jaurigui Martin.**

Judgment affirmed. Reardon, J. We concur: Poché, Acting P.J., McGuinness, J.

Thursday, January 15, 1998 (continued)

DIVISION FIVE

**A075617 -- G. S. Roe, v. State Personnel Board et al., Department of Justice et al., R.P.I.**

The trial court's judgment granting the petition for writ of mandate is affirmed in part, and reversed in part. The trial court is directed to enter a new judgment granting the petition for writ of mandate and remanding this matter to the State Personnel Board with instructions to hear Roe's appeal. Jones, J. We concur: Peterson, P.J., Haning, J. (Not for Publication.)

**A076273 -- The People v. Scott J. Fredette.**

The judgment is affirmed. Peterson, P.J. We concur: Haning, J., Jones, J. (Not for Publication.)

## MINUTES

### CALIFORNIA COURT OF APPEAL FIRST APPELLATE DISTRICT DIVISION TWO

Thursday, January 15, 1998

The Court met at 9:30 a.m. in its courtroom at 303 - 2nd Street, Fourth Floor, San Francisco. Present: Kline, P. J., Haerle, J., Ruvolo, J. and B. Robbins, Deputy Clerk.

- A077775      The People  
                 v.  
                 David Keith Zelinski  
Cause called and argued by Richard Runcie, counsel for appellant and John Vance, Deputy Attorney General, counsel for respondent. Cause ordered submitted.
- A075045      Maria Carmen Ramirez Valero  
                 v.  
                 Home Depot U.S.A., Inc., et al.  
Cause called and argued by Steve Littman, counsel for appellant and Mary Guilfoyle, counsel for respondent. Cause ordered submitted.
- A078920      In re the Marriage of  
                 Phillip C. Stewart  
                 v.  
                 Sandra D. Stewart  
Cause called and argued by Alvin Potter, counsel for appellant and L. Thomas Surh, counsel for respondent. Cause ordered submitted.
- A078212      James E. Row  
                 v.  
                 Deputy Schwartz, et al.  
Cause called and argued by Bruce Nickerson, counsel for appellant and Kristen J. Thorsness, counsel for respondent. Cause ordered submitted.

Court recessed until 1:30 p.m.

Court reconvened at 1:30 p.m. Present: Kline, P. J., Haerle, J., Lambden, J. and S. Graham, Deputy Clerk.

- A077075 Michael Singsen  
v.  
Television Signal Corporation  
Cause called and argued by Christopher P. Witteman, counsel for appellant and Richard Patch, counsel for respondent. Submission deferred 10 days for counsel to submit supplemental letter briefs.
- At this point in the proceedings, Justice Haerle left the bench and Justice Ruvolo joined the bench.
- A076760 The People  
v.  
Alfred Dennis White
- A080427 In re Alfred Dennis White, on Habeas Corpus  
Causes called and argued by Marylou Hillberg, counsel for appellant and Mark Howell, Deputy Attorney General, counsel for respondent. Causes ordered submitted.
- A073270 The People  
v.  
Fred Gene Stillman  
and Luanne Stillman  
Cause called and argued by Gail Weinheimer, counsel for Fred Gene Stillman and Bruce Ortega, Deputy Attorney General, counsel for respondent. Cause ordered submitted.
- A076840 Therese Petrini  
v.  
Mohasco Corporation  
Cause called and argued by James Oberman, counsel for appellant and Jon Kasimov, counsel for respondent. Cause ordered submitted.
- A078534 Alan Barcelona, et al.  
v.  
Dept. of Personnel Administration  
Cause called and argued by Gary Messing, counsel for appellants and Robert Roskoph, counsel for respondent. Cause ordered submitted.
- A077453 Pacific Bell

v.

Amelco Industries

Cause called and argued by Bart Kimball, counsel for appellant and James Rohde, counsel for respondent. Cause ordered submitted.

Court adjourned.

MINUTES

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT

Friday, January 16, 1998

DIVISION ONE

**A079899 -- The People v. Kenneth Hoziea Jermon.**

The judgment is affirmed. Strankman, P.J. We concur: Stein, J., Dossee, J. (Not for Publication.)

DIVISION TWO

**A075251 -- Allyn Beth Landau, M.D. v. The Superior Court of the State of California, in and for the City and County of San Francisco, Medical Board of California, R.P.I.**

**A075493 -- Allyn Beth Landau, M.D. v. Medical board of California.**

By The Court: The opinion filed January 12, 1998, is modified as follows:  
Pursuant to California Rules of Court, rules 976(b) and 976.1, the opinion is certified for publication with the exception of Parts III, IV and VI. Kline, P.J.

**A078650 -- In re Stephen S., a Person Coming Under the Juvenile Court Law.**

The order continuing appellant as a ward of the court and committing him to the California Youth Authority is affirmed. Kline, P.J. We concur: Haerle, J., Lambden, J. (Not for Publication.)

**A079940 -- The People v. Astrid Taylor.**

The judgment is affirmed. Ruvolo, J. We concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)



Friday, January 16, 1998 (continued)

DIVISION THREE

**A074344 -- Franklin D. Carroll v. First Interstate Bank et al.**

For all the foregoing reasons, the judgment is affirmed. Costs to respondents. Phelan, P.J. We concur: Corrigan, J., Parrilli, J. (Not for Publication.)

**A076537 -- The People v. Todd Allen Nicholson.**

Affirmed. Walker, J. We concur: Phelan, P.J., Parrilli, J. (Not for Publication.)

**A078889 -- The People v. Harry E. Bonilla.**

We have reviewed the entire record and conclude there are no meritorious issues to argue on appeal. Consequently, we affirm the judgment. Parrilli, J. We concur: Phelan, P.J., Walker, J. (Not for Publication.)

DIVISION FOUR

**A076290 -- In re Kristina H., a Person Coming Under the Juvenile Court Law.**

The order is affirmed. Reardon, J. We concur: Hanlon, P.J., McGuinness, J. (Not for Publication.)

Friday, January 16, 1998 (continued)

DIVISION FIVE

**A074848 -- The People v. Alexander Lavert Moss.**

**A079760 -- In re Alexander Lavert Moss on Habeas Corpus.**

With regard to Moss's appeal, we affirm his conviction and sentence. With respect to Moss's petition for writ of habeas corpus, we find good cause as to the issues of the alleged false testimony by the medical examiner and the alleged ineffective assistance of counsel due to defense counsel's alleged failure to obtain an independent examination of the physical evidence and his alleged failure to canvass the neighborhood of the shooting to locate witnesses concerning the shooting. With respect to these issues, the Attorney General is ordered to show cause why habeas corpus should not be granted. The order to show cause is returnable to the Contra Costa Superior Court. In all other respects, the petition for writ of habeas corpus is denied. Jones, J. We concur: Peterson, P.J., Haning, J. (Not for Publication.)

MINUTES

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT

Tuesday, January 20, 1998

DIVISION TWO

**A077079 -- Nagi Homran v. City of Berkeley.**

The judgment is affirmed. City is awarded sanctions of \$372.50, the amount spent for preparation of its Respondent's Appendix. Lambden, J. We concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

**A077740 -- In re the Marriage of Hafferkamp.**

The appeal is dismissed. Haerle, J. We concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

**A078571 -- In re Jessica M. and Samantha M., Persons Coming Under the Juvenile Court Law.**

The judgment is affirmed. Kline, P.J. We concur: Haerle, J., Ruvolo, J. (Not for Publication.)

**A079610 -- The People v. Richard Carl Cain.**

The judgment is affirmed. Haerle, J. We concur: Kline, J., Lambden, J. (Not for Publication.)

Tuesday, January 20, 1998 (continued)

DIVISION THREE

**A074592 -- Economic Empowerment Foundation v. Charles Quackenbush, as Insurance Commissioner, etc., State Farm Mutual Automobile Insurance Company et al., R.P.I.**

The judgment denying the petition for writ of mandate is affirmed. Walker, J. We concur: Phelan, P.J., Parrilli, J. (Not for Publication.)

**A076854 -- The People v. James E. Vick.**

**A079193 -- In re James E. Vick on Habeas Corpus.**

Affirmed. Walker, J. We concur: Phelan, P.J., Corrigan, J. (Not for Publication.)

DIVISION FOUR

**A074574 -- The People v. Richard Edward Wright, Jr.**

The convictions are affirmed. The sentence is modified as stated directly above under heading V. Sentence. Hanlon, P.J. We concur: Reardon, J., McGuinness, J. (Certified for Publication.)

**A077867 -- Pro-Family Advocates et al. v. James Gomez, as Director, etc.**

The order denying Pro-Family Advocates' request for an award of reasonable attorney fees is reversed. Reardon, J. We concur: Hanlon, P.J., McGuinness, J. (Not for Publication.)

**A978482 -- Ali Sheikhzadeh v. Bruce Palmer Hotaling.**

The judgment, including the order denying the motion for new trial, is affirmed. Reardon, J. We concur: Hanlon, P.J., McGuinness, J. (Not for Publication.)

Tuesday, January 20, 1998 (continued)

DIVISION FIVE

**A074869 -- The People v. Cleveland Scott.**

The judgment of conviction is affirmed. Peterson, P.J. We concur: Haning, J., Jones, J. (Not for Publication.)

**A075573 -- The People v. Bismark Rojas.**

The judgment is affirmed. Jones, J. We concur: Peterson, P.J., Haning, J. (Not for Publication.)

**A077540 -- The People v. Randy Wayne Abenth.**

The judgment is affirmed. Jones, J. We concur: Peterson, P.J., Haning, J. (Not for Publication.)

**A078341 -- In re Logololoa T., a Person Coming Under the Juvenile Court Law.**

The judgment is affirmed. Jones, J. We concur: Peterson, P.J., Haning, J. (Not for Publication.)

**A078563 -- The People v. Dave Styles Stratton.**

The judgment is affirmed. Jones, J. We concur: Peterson, P.J., Haning, J. (Not for Publication.)

**A079534 -- The People v. Robert Joseph Watkins.**

The judgment is affirmed. Jones, J. We concur: Peterson, P.J., Haning, J. (Not for Publication.)

MINUTES

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT

DIVISION FOUR

Tuesday, January 20, 1998

Court convened at 9:30 a.m. in its courtroom at 303 Second Street, South Tower, Fourth Floor, San Francisco, California. Present: Hanlon, P.J., Poche, J. and McGuiness, J.; Channing Hoo, Deputy Clerk; CHP Officer E. Swanson, Baliff.

- A077036      In re the Marriage of Singleton  
                 Mifflin Singleton  
                 v.  
                 Patricia Singleton  
                 Cause called and argued by Jeffrey Ryan, counsel for appellant Mifflin Singleton, and by Bernard Wolf, counsel for respondent. Cause ordered submitted.
- A072126      People  
                 v.  
                 Gregory Brown et al.  
                 Cause called and argued by Victor Blumenkrantz, counsel for appellant Gregory Brown; Kyle Gee, counsel for appellant Wanda Fain; and by Gregory Ott, counsel for respondent. Cause ordered submitted.  
                 The court recessed at 10:24 a.m.

MINUTES

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT

Wednesday, January 21, 1997

DIVISION ONE

**A076661 -- The People v. Charles H. Bailey.**

The judgment is affirmed. Dossee, J. We concur: Stein, J., Swager, J.  
(Not for Publication.)

**A077890 -- Ricky Alan Richards v. Ivan Hess, Humboldt State University.**

The judgment is affirmed. Dossee, J. We concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

**A078107 -- In re Tywon F., a Person Coming Under the Juvenile Court Law.**

The orders of the juvenile court are affirmed. Dossee, J. We concur: Strankman, P.J., Swager, J. (Not for Publication.)

**A080725 -- Dyarla B. v. The Superior Court of Mendocino County, Mendocino County Department of Social Services, R.P.I.**

The challenged orders are supported by substantial evidence. (*James B. v. Superior Court* (1995) 35 Cal.App.4th 1014, 1021.) The petition for extraordinary writ is denied on the merits. (See Cal. Const., art. VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888, 894; *Bay Development, Ltd. v. Superior Court* (1990) 50 Cal.3d 1012, 1024.)

The section 366.26 hearing is set for February 26, 1998. Therefore, our decision is final in this court immediately. Strankman, P.J. We concur: Stein, J., Dossee, J. (Not for Publication.)

Wednesday, January 21, 1998 (continued)

DIVISION TWO

**A074019 -- The People v. Klee Christopher Orthel.**

**A079316 -- Klee Christopher Orthel, On Habeas Corpus.**

The judgment is affirmed. The petition for writ of habeas corpus is denied.  
Lambden, J. We concur: Haerle, Acting P.J., Ruvolo, J. (Not for Publication.)

**A075659 -- The People v. Jolly Anne Bikangaga.**

**A080630 -- In re Jolly Anne Bikangaga on Habeas Corpus.**

The petition for habeas corpus is denied.

The judgment is affirmed. Lambden, J. We concur: Haerle, Acting P.J.,  
Ruvolo, J. (Not for Publication.)

**A077120 -- Madison Owners Association v. Richard W. Koontz.**

The judgment is affirmed. Haerle, Acting P.J. We concur: Lambden, J.,  
Ruvolo, J. (Not for Publication.)

**A078833 -- In re Y. S., a Person Coming Under the Juvenile Court Law.**

The judgment is affirmed. Ruvolo, J. We concur: Kline, P.J., Lambden, J.  
(Not for Publication.)

**A079784 -- Eddie Andreini et al., v. The Superior Court of San Mateo  
County, Maurilio Solorio, R.P.I.**

The petition is denied. The stay is vacated. Each party shall bear their own  
costs. Ruvolo, J. We concur: Kline, P.J., Haerle, J. (Certified for Publication.)



Wednesday, January 21, 1998 (continued)

DIVISION FOUR

**A076928 -- Ghanshyam Patel et al. v. City of Fairfield et al.**

The summary judgment is affirmed. Defendants shall recover their costs.  
Poché, J. We concur: Hanlon, P.J., Reardon, J. (Not for Publication.)

**A077165 -- The People v. Samuel T. Hargrove.**

The judgment is affirmed. Hanlon, P.J. We concur: Poché, J., Reardon, J.  
(Not for Publication.)

**A077320 -- The People v. Thomas Dewey Easton.**

Judgment affirmed. Reardon, J. We concur: Hanlon, P.J., McGuinness, J.  
(Not for Publication.)

**A077924 -- The People v. George T. Roux.**

The judgment is affirmed. Hanlon, P.J. We concur: Poché, J., Reardon, J.  
(Not for Publication.)

**A078058 -- The People v. Ronald J. McIntyre.**

The judgment of conviction is affirmed. Poché, J. We concur: Hanlon, P.J., Reardon, J. (Not for Publication.)

**A078184 -- The People v. David L. Blood.**

The judgment is affirmed. Hanlon, P.J. We concur: Poché, J., Reardon, J.  
(Not for Publication.)

Wednesday, January 21, 1998 (continued)

DIVISION FIVE

**A075554 -- Middletown Rancheria of Pomo Indians, dba Twin Pine Casino v. Workers' Compensation Appeals Board and Glen Sherron.**

For the reasons discussed above, section 1360 is not a congressional waiver of Tribe's right to sovereign immunity from state workers' compensation liability. The appeals Board does not have subject matter jurisdiction over Tribe.

The decision of the Appeals Board dated July 29, 1996, is reversed. Parties are to bear their own costs on appeal. Jones, J. We concur: Peterson, P.J., Haning, J. (Certified for Publication.)

**A076541/A076555 -- Denise Jameson v. Angelino Santos et al., Gorette Marie Shreeve et al.**

The restraining orders issued against Romona Pita, Maria Santos, and Angelino Santos are dissolved. The restraining order against Gorette Marie Shreeve is affirmed.

The parties shall bear their own costs on appeal. Peterson, P.J. We concur: Haning, J., Jones, J. (Not for Publication.)

**A078005 -- The People v. Marco White.**

The order permanently revoking appellant's probation is affirmed. Haning, J. We concur: Peterson, P.J., Ruvolo, J.\*

\*Associate Justice the Second Division of the First District Court of Appeal assigned by the Chairperson of the Judicial Council. (Not for Publication.)

**A078861 -- Tremayne Hill v. Fire Insurance Exchange.**

The judgment is affirmed. Peterson, P.J. We concur: Haning, J., Jones, J. (Not for Publication.)

Wednesday, January 21, 1998 (continued)

**A079324 -- The People v. Kimberly Harvey.**

The order revoking appellant's probation and imposing appellant's previously suspended prison term is affirmed. Haning, J. We concur: Peterson, P.J., Jones, J. (Not for Publication.)

MINUTES

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT

Thursday, January 22, 1998

DIVISION ONE

**A077852 -- In re Ruby C. and Sarah C., Persons Coming Under the  
Juvenile Court Law.**

The judgment is affirmed. Swager, J. We concur: Strankman, P.J.,  
Dossee, J. (Not for Publication.)

## MINUTES

### COURT OF APPEAL STATE OF CALIFORNIA FIRST APPELLATE DISTRICT

#### DIVISION FIVE

Thursday, January 22, 1998

Court convened at 9:30 a.m. in its Courtroom at 303 Second Street, South Tower, Fourth Floor, San Francisco, California. Present: Peterson, P.J.; Haning, J.; Jones, J.; and Richard H. Sandvik, Deputy Clerk.

- A080858      John Muir Medical Center et al.  
                  v.  
                  Superior Court of Contra Costa County  
                  and  
                  Denise Stocks  
                  Cause called and argued by David Lester and Timothy Lee, counsel for  
                  petitioners, counsel for real party in interest did not appear. Cause ordered  
                  submitted.
- A076279      Milagra Ridge Partners, Ltd.  
                  v.  
                  City of Pacifica et al.  
                  Cause called and argued by Jeffrey S. Schoppert, counsel for appellant, and  
                  by Michelle Marchetta Kenyon, counsel for respondent. Cause ordered  
                  submitted.
- A078209      Thomas E. Grossi et al.  
                  v.  
                  City of Oakland  
                  Cause called and argued by William Robledo Edgar, counsel for appellant,  
                  and by Charles Vose, counsel for respondent. Cause ordered submitted.
- A077883      Barbara Oliver  
                  v.  
                  Peralta Community College District  
                  Cause called, Barbara Oliver, appellant in pro per, waived argument, M.  
                  Reed Hunter appeared for respondent. Cause ordered submitted.



A077570      John Overman  
v.  
City and County of San Francisco  
Cause called and argued by Gary R. Cloutier, counsel for appellant, and by  
Mark L. Mosley, counsel for respondent. Cause ordered submitted.

A078582      Norcal Piggyback Transportation, Inc.  
v.  
A&G Transportation, Inc.  
Cause called and argued by Terrence W. Andrews, counsel for appellant,  
and by James Attridge, counsel for respondent. Cause ordered submitted.

A077985      Selina Chan et al.  
v.  
Kwang POUNG Chiu et al.  
Cause called and argued by Monte E. Travis and Jethro S. Busch, counsel  
for appellant, and by Christopher E. Judge, counsel for respondent. Cause  
ordered submitted.

A078272      Gordon Vann et al.  
v.  
The Travelers Companies et al.  
Cause called and argued by Kent Keller, counsel for appellant, and by  
David B. Goodwin, counsel for respondent. Cause ordered submitted.

A075799      The People  
v.  
Damon Shavaya Davis  
Cause called and argued by Deborah Tuttleman, counsel for appellant, and  
by Mark Howell, Deputy Attorney General, counsel for respondent. Cause  
ordered submitted.

A077258      The People  
v.  
Whitney Buchanan  
Cause called and argued by Alfons G. Wagner, counsel for appellant, and  
by Violet Lee, Deputy Attorney General, counsel for respondent. Cause  
ordered submitted.

A074880      The People  
v.  
Joan Larae Carrafa  
Cause called and argued by John McCabe, counsel for appellant, and by  
Herbert F. Wilkinson, Deputy Attorney General, counsel for respondent.  
Cause ordered submitted.

A074273      The People  
v.  
Jamal Barteau Fountain  
Cause called and argued by Kyle Gee, counsel for appellant, and by Amy  
Haddix, Deputy Attorney General, counsel for respondent. Cause ordered  
submitted.

A068667      The People  
v.  
Scott Allan Wright  
Cause called and argued by Kyle Gee, counsel for appellant, and by Enid  
A. Camps, Deputy Attorney General, counsel for respondent. Cause  
ordered submitted.

Court adjourned at 2:45 p.m.



MINUTES

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT

Friday, January 23, 1998

DIVISION TWO

**A078718 -- The People v. Vernal Evans.**

A review of the record discloses no error adverse to Evans and no arguable issues for briefing. The judgment is affirmed. Lambden, J. We concur: Kline, P.J., Haerle, J. (Not for Publication.)

DIVISION THREE

**A077126 -- Rudolph T. Davi et al. v. Condor Insurance Company.**

We reverse the trial court's determination that Condor is entitled to reduce the liability limits of \$60,000 in a sum equal to the workers' compensation benefits paid to appellants. We also hold that while Condor may offset against its underinsurance liability the amounts appellants actually receive from the third party's liability carrier, no evidence was presented as to that amount. We reverse and remand for a determination as to that amount and for further proceedings consistent with this opinion. Appellants to recover costs on appeal. Walker, J. We concur: Corrigan, Acting P.J., Parrilli, J. (Not for Publication.)

**A077260 -- The People v. Donald Ray Green.**

Affirmed. Walker, J. We concur: Corrigan, Acting P.J., Parrilli, J. (Not for Publication.)

Friday, January 23, 1998 (continued)

**A078530 -- Charles Quackenbush, as Insurance Commissioner, etc., et al. v. The Superior Court of San Francisco County, Congress of California Seniors et al., R.P.I.**

Order Modifying Opinion and Denying Rehearing; By The Court: It is ordered that the opinion filed herein on December 24, 1997, be modified in the following particular: (See Order) The petition for rehearing is denied. There is no change in the judgment. Phelan, P.J. (Certified for Publication.)

**A078604 -- The People v. Adan T. Garcia.**

The order modifying probation is affirmed. Walker, J. We concur: Phelan, P.J., Corrigan, J. (Not for Publication.)

**A079588 -- The People v. Robert Michael Delgado.**

The judgment is affirmed. Phelan, J. We concur: Corrigan, J., Walker, J. (Not for Publication.)

DIVISION FOUR

**A079000 -- The People v. Timothy Austin.**

The sentencing order striking defendant's prior felony conviction allegations is set aside, and the judgment is vacated and remanded for resentencing with directions to permit the defendant to withdraw his plea. McGuiness, J. We concur: Poché, Acting P.J., Reardon, J. (Not for Publication.)

DIVISION FIVE

**A074789/A079042 -- The People v. Louis R. Jenkins.**

The judgment is affirmed. Appellant's petition for writ of habeas corpus is denied. Peterson, P.J. We concur: Haning, J., Jones, J. (Not for Publication.)

MINUTES

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT

Monday, January 26, 1998

DIVISION ONE

**A078727 -- The People v. Kimoni L. Thomas.**

The judgment is affirmed. Dossee, J. We concur: Strankman, P.J.,  
Swager, J. (Not for Publication.)

**A079340 -- Conservatorship of Philip B.**

**Mendocino County Public Guardian v. Philip B.**

The appeal is dismissed. Dossee, J. We concur: Strankman, P.J., Stein, J.  
(Not for Publication.)

**A079591 -- The People v. Roy D. Wade.**

The judgment is affirmed. Dossee, J. We concur: Strankman, P.J.,  
Swager, J. (Not for Publication.)

DIVISION TWO

**A076196 -- The People v. Kurt Peter Norlin.**

The appeal is dismissed. Kline, P.J. We concur: Lambden, J., Ruvolo, J.  
(Not for Publication.)

Monday, January 26, 1998 (continued)

**A076686 -- James J. O' Donnell et al. v. Bostwick & Tehin et al.**

No error in the demurrer ruling is shown. The judgment of dismissal is affirmed. Lambden, J. We concur: Haerle, Acting P.J., Ruvolo, J. (Not for Publication.)

**A077009 -- In re Don L., a Person Coming Under the Juvenile Court Law.**

The orders appealed from are affirmed. Kline, P.J. We concur: Haerle, J., Lambden, J. (Not for Publication.)

**A077174 -- Thordie Ashley et al. v. Oakland Base Reuse Authority et al.**

The judgment is affirmed. The parties are to bear their own costs on appeal. Kline, P.J. We concur: Haerle, J., Ruvolo, J. (Not for Publication.)

**A077195 -- The People v. Richard John Rossi.**

The judgment is affirmed. Kline, P.J. We concur Haerle, J., Lambden, J. (Not for Publication.)

**A077416 -- Garry Aquilino, et al. v. Marin County Employees' Retirement Association, et al.**

We reverse the judgment. The trial court is directed to issue a peremptory writ of mandate directing the MCERA Board to reinstate appellants into the Tier I membership plan of MCERA with all service credited to that plan. Haerle, J. We concur: Kline, P.J., Ruvolo, J. (Certified for Publication.)

**A078292 -- Harvey L. Poppel et al. v. Town of Tiburon, Petr Kiritchenko, R.P.I.**

We affirm the judgment and the Poppels are to pay costs. Lambden, J. We concur: Haerle, Acting P.J., Ruvolo, J. (Not for Publication.)

Monday, January 26, 1998 (continued)

DIVISION FOUR

**A078121 -- The People v. Alfredo Jimenez.**

The judgment is affirmed. Poché, Acting P.J. We concur: Reardon, J., McGuinness, J. (Not for Publication.)

**A081028 -- The People v. Juan Hernandez.**

The judgment is affirmed. Poché, Acting P.J. We concur: Reardon, J., McGuinness, J. (Not for Publication.)

MINUTES

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT

Tuesday, January 27, 1998

DIVISION THREE

**A076270 -- The People v. Jose Eugenio Melhado.**

We reverse and remand for retrial. Walker, J. We concur: Phelan, P.J., Corrigan, J. (Certified for Partial Publication.)

**A076798 -- Zurich Insurance Company v. Hertz Corporation.**

The judgment is affirmed. Corrigan, Act. P.J. We concur: Parrilli, J., Walker, J. (Not for Publication.)

**A077306 -- The People v. Rosalia Mendoza Gonzales.**

For all the foregoing reasons, the judgment of conviction, including the sentence imposed by the trial court, is affirmed in its entirety. Phelan, P.J. We concur: Parrilli, J., Walker, J. (Not for Publication.)

**A079318 -- The People v. Quincy Hilliard.**

The judgment is affirmed. Corrigan, J. We concur: Phelan, P.J., Walker, J. (Not for Publication.)

Tuesday, January 27, 1998 (continued)

DIVISION FOUR

**A070809 -- Bruce Springmeyer et al. v. Ford Motor Company et al.**

The judgment is reversed and the case is remanded for further proceedings consistent with this opinion. The parties shall bear their own costs on appeal. Hanlon, P.J. We concur: Poché, J., Reardon, J. (Certified for Publication.)

**A077036 -- In re the Marriage of Mifflin Singleton and Patricia Singleton.**

The orders “for division of pension benefits” are affirmed. Respondent shall recover her costs of appeal. Poché, J. We concur: Hanlon, P.J., McGuiness, J. (Not for Publication.)

**A077970 -- Lawrence D. Murray v. State Farm Fire and Casualty Company.**

The appeal is dismissed. Respondents shall recover costs on appeal. Poché, J. We concur: Hanlon, P.J., Reardon, J. (Not for Publication.)

**A078153 -- Pinole Medical Group, Inc. v. Alta Bates Health Systems et al.**

Order Modifying Opinion and Denying Rehearing; The Court: It is ordered that the opinion filed herein on December 30, 1997, be modified in the following particulars: (See Order)

The order denying defendants’ petition to compel arbitration is reversed. There is no change in the judgment. The petition for rehearing is denied. Hanlon, P.J. (Not for Publication.)

DIVISION FIVE

**A078389 -- The People v. Rickey Glynn Reeves.**

We affirm the judgment. Jones, J. We concur: Peterson, P.J., Haning, J. (Not for Publication.)

MINUTES

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT

DIVISION THREE

TUESDAY, JANUARY 27, 1998

Court convened at 9:00 a.m. in its Courtroom at 303 Second Street, Marathon Plaza-South Tower, Fourth Floor, San Francisco, California.

Present: Phelan P.J., Parrilli, J., and J. Casados, Deputy Clerk

Justice Phelan announced that Justice Corrigan would not be present at oral argument. Counsel had been advised of her absence with the calendar notice. Since the court records the oral argument sessions, Justice Corrigan will listen to the audio tape. Should anyone object to a two-panel oral argument session, the matter will be continued. There were no objections by either party.

A076432     In re Daniel K., a Person Coming Under the Juvenile Court Law.  
                 Social Services Agency,  
                 v.  
                 Maureen K.  
                 Cause called and argued by Orzo Childs, counsel for appellant,  
                 and Ellen Forman, counsel for respondent. Cause ordered submitted.

A076912     Michael D. Venegas,  
                 v.  
                 Workers' Compensation Appeals Board et al.  
                 Cause called and argued by Frank A. Ury, counsel for petitioner, and Don  
                 Clark, counsel for respondents. Cause ordered submitted.

A075272     JMB Property Managers, Inc.,  
                 v.  
                 Ford & Vlahos et al.  
                 Cause called and argued by John Ford, in pro per, and Andrea Ingram,  
                 counsel for respondent. Cause ordered submitted.

Court adjourned.



MINUTES

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT

Wednesday, January 28, 1998

DIVISION ONE

**A078888 -- The People v. Peter Bryan Kirk Green.**

The judgment is affirmed. Stein, J. We concur: Strankman, P.J., Swager, J. (Not for Publication.)

DIVISION TWO

**A077068 -- James D. Porsche, et al. v. Tommy J. Hardin.**

The judgment is affirmed. Haerle, J. We concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

DIVISION FOUR

**A072126 -- The People v. Gregory Brown et al.**

The judgments of conviction as to defendants Gregory Brown and Wanda Louise Fain are affirmed. The judgment of conviction of Joseph Diggs is affirmed in all respects except that the conviction of count 4, possession of a firearm by a felon, is vacated. The Clerk of the Superior Court is directed to prepare an amended abstract of judgment which deletes all reference to a conviction on count 4 and to forward a certified copy of the amended judgment to the Department of Corrections. Poché, J. We concur: Hanlon, P.J., McGuinness, J. (Not for Publication.)

Wednesday, January 28, 1998 (continued)

**A076682 -- In re Arturo D. et al., Persons Coming Under the Juvenile Court Law.**

The order is affirmed. Saldamando, J.\* We concur: Hanlon, P.J., Reardon, J.

\*Judge of the San Francisco Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution. (Not for Publication.)

**A078722 -- The People v. Tony Pierre Lewis.**

In sum, imposing a condition that appellant consent to searches without warrant, cause or consent was unreasonable under either test. We hereby order the judgment amended to omit, as a condition of probation, that appellant submit to search and seizure of his person, place of residence or area under his control, or vehicle, by any probation officer or peace officer, during the day or night, with or without his consent, with or without a warrant, and without regard to probable cause or reasonable cause. McGuiness, J. We concur: Poché, Acting P.J., Reardon, J. (Not for Publication.)

**A079907 -- The People v. Tonnie Anthony Brooks.**

The judgment is affirmed. McGuiness, J. We concur: Hanlon, P.J., Reardon, J. (Not for Publication.)

**DIVISION FIVE**

**A077704 -- Steve Aronovsky v. Jay N. Nguyen et al.**

The Court: The judgment is affirmed. Before Peterson, P.J.; Haning J.; Jones, J. (Not for Publication.)

## MINUTES

### CALIFORNIA COURT OF APPEAL FIRST APPELLATE DISTRICT DIVISION ONE

Wednesday, January 28, 1998

The Court met at 9:00 a.m. in its courtroom at 303 - 2nd Street, Fourth Floor, San Francisco. Present: Strankman, P. J., Stein, J., Dossee, J. and N. Millner, Deputy Clerk.

- A080628     The People,  
                 v.  
                 The Superior Court of Alameda County,  
                 Respondent;  
                 Dennis R. Peron et al.,  
                 Real Parties in Interest.  
                 Cause called and argued by Ronald Bass, Attorney General, counsel for  
                 petitioner, and J. David Nick, counsel for real parties in interest. Cause  
                 ordered submitted. The request for joinder of the return for all Real Parties  
                 in Interest filed in the Court on January 27, 1998, was granted.
- A075231     Susan Larsen et al.,  
                 v.  
                 Republic Indemnity Company of America et al.  
                 Cause called and argued by Christina J. Imre, counsel for appellants, and  
                 Victor Haydel, counsel for respondents. Cause ordered submitted.
- A077403     Estate of Charles H. Berger, Deceased.  
                 Mary J. Swanson,  
                 v.  
                 George Clarke et al.  
                 Cause called and argued by Gregory Rubens, counsel for petitioner, and  
                 Bruce Bailey, counsel for objectors. Cause ordered submitted.
- A076696     Anita L. Crockett,  
                 v.  
                 Congress Mortgage Co., et al.,  
                 West Wind Advantage, Inc.  
                 Cause called and argued by Daniel Stea, counsel for appellants, and  
                 William Bruegmann, counsel for respondent. Cause ordered submitted.

A077142 Stephen S. Noetzel,  
v.  
San Francisco State University et al.  
Cause called and argued by Lee Ormasa, counsel for appellant, and Bradley Solomon, counsel for respondents. Cause ordered submitted.

A076060 Ray Mayeri,  
v.  
Ronald Holman.  
Cause called and argued by Steve Olson, counsel for appellant, and Douglas Smith, counsel for respondent. Cause ordered submitted.

A076592 Joseph McInerney,  
v.  
City and County of San Francisco et al.  
Cause called and argued by Joseph McInerney, in pro per, and Cheryl Weisbard, counsel for respondents. Cause ordered submitted.

Court recessed until 2:00 p.m.

Court reconvened at 2:00 p.m. Present: Strankman, P. J., Dossee, J., Swager, J., and I. Cespedes, Deputy Clerk. At this point, Presiding Justice Strankman announced that the panel on the first two cases would be himself and Justices Dossee and Swager and the panel on the remaining cases would be Justices Stein, Dossee and Swager.

A076872 Leslie M. Flannery,  
v.  
California Highway Patrol et al.  
Cause called and argued by Lisa Tillman, counsel for appellant, and Amitai Schwartz, amicus curiae for respondent, and Lawrence Hensley, counsel for respondent. Cause ordered submitted.

A077414 Contra Costa County,  
v.  
Gerald Mark Meza.  
Cause called and argued by Mary Roth, counsel for appellant, via teleconference, and Frank Frisch, counsel for respondent. Cause ordered submitted.

A076811     Eva Roza, dba Roza & Company,  
                 v.  
                 Joyce Yamagiwa.  
                 Cause called and argued by Kevin Wheelwright, counsel for appellant, and  
                 Richard Alexander, counsel for respondent. Cause ordered submitted.

A077474     Elizabeth Rose McCarthy,  
                 v.  
                 Ray Bronner.  
                 Cause called and argued by Ray Bronner, in pro per, via teleconference,  
                 and Monica Mucchetti, counsel for respondent. Cause ordered submitted.

Court recessed until Thursday, January 29, 1998 at 9:00 a.m.

MINUTES

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT

Thursday, January 29, 1998

DIVISION TWO

**A073270 -- The People v. Fred Gene Stillman and Luanne Stillman.**

The judgment as to Fred Stillman is affirmed. The judgment as to Luanne Stillman is modified to strike the section 12022.7, subdivision (a), enhancement connected with count 3 and, as so modified, is affirmed. Kline, P.J. We concur: Lambden, J., Ruvolo, J. (Not for Publication.)

**A076173/A078268 -- In re Joseph T., a Person Coming Under the Juvenile Court Law.**

The judgment is affirmed. Haerle, J. We concur: Kline, P.J., Lambden, J. (Not for Publication.)

**A076453 -- The People v. Reymundo Perez, Jr.**

No abuse of discretion appears. The judgment is affirmed. Lambden, J. We concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

**A076472 -- Conservatorship of the Person and Estate of Rosemarie Ricasa.**

**Solano County Public Guardian, as Conservator, etc. v. Rosemarie Ricasa.**

We affirm the judgment. Lambden, J. We concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

Thursday, January 29, 1998 (continued)

**A076725 -- Bergen Brunswick Drug Company v. Milton Sloban et al.**

The judgment against Barbara Sloban is reversed, and she shall recover her costs on appeal from Bergen. The balance of the judgment is affirmed. Ruvolo, J. We concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

**A076844 -- Paul M. Resnick et al. v. Franchise Tax Board.**

The judgment is affirmed. Lambden, J. We concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

**A077063 -- The People v. Kevin Lee Barrios.**

**A078509 -- In re Kevin Lee Barrios on Habeas Corpus.**

The People have conceded, and we agree, the court erred in sentencing appellant to a term of incarceration which exceeded the terms agreed to in connection with his change of plea. Therefore, in accord with the disposition in *People v. Mancheno* (1982) 32 Cal.3d 855, 860-861, *People v. McElroy* (1989) 208 Cal.App.3d 1415, 1431-1432 and *People v. Rojas* (1988) 206 Cal.App.3d 795, 802, the matter shall be remanded to the trial court for resentencing in conformance with the terms of the plea agreement or, in the alternative, to allow appellant to withdraw his plea and proceed to trial. In the event of resentencing, the portion of the petition for writ of habeas corpus requesting confirmation of the correctness of custody credits shall be granted for that limited purpose. In all other respects the petition is denied. Lambden, J. We concur: Kline, P.J., Haerle, J. (Not for Publication.)

**A078034 -- The People v. David E. Carter.**

The judgment is affirmed. Ruvolo, J. We concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

**A079693 -- The People v. Reginald Glenn Hill.**

The judgment is affirmed. Lambden, J. We concur: Kline, P.J., Haerle, J. (Not for Publication.)

Thursday, January 29, 1998 (continued)

DIVISION FIVE

**A076349 -- Sophia Marie Regosin-Hodges, a minor v. McNeil Consumer Products Company, Division of McNeil-PPC, Inc.**

The judgment is affirmed. Haning, J. We concur: Peterson, P.J., Jones, J.  
(Not for Publication.)



CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION ONE

Thursday, January 29, 1998

The Court met at 9:00 a.m. in its courtroom at 303 - 2nd Street, Fourth Floor, San Francisco. Present: Strankman, P. J., Stein, J., Swager, J. and N. Millner, Deputy Clerk.

- A074342 Profit Pak, Incorporated.  
A075343 v.  
Allen Nelson.  
Cause called and argued by Duane Perry, counsel for appellant, and Geoffrey Rotwein, counsel for respondent. Cause ordered submitted. Before argument, court granted permission to Attorney Perry to reply to the letter filed on 1-28-98 from Attorney Rotwein. Reply due within 7 days not to exceed 3 pages in length.
- A076035 Lawrence J. Carr,  
v.  
Henry Hae Jo Kim et al.  
Cause called and argued by Henry Kim, in pro per, and John Mavredakis, counsel for respondent. Cause ordered submitted.
- A075321 The People,  
v.  
Stanley Dang.  
Cause called and argued by Keith Brooks, counsel for appellant, and John R. Vance, Deputy Attorney General, counsel for respondent. Cause ordered submitted.
- A075628 The People,  
v.  
Leroy Coleman et al.  
Cause called and argued by Courtney Shevelson, counsel for appellant, via teleconference, and Michael Banister, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

A079050

Edward P. Dant,

v.

The Superior Court of San Francisco County;

The People,

Real Party in Interest.

Cause called and argued by James S. Donnelly, counsel for petitioner, and  
Ross Moody, Deputy Attorney General, counsel for real party in interest.

Cause ordered submitted.

**COURT ADJOURNED**

MINUTES

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT

Friday, January 30, 1998

DIVISION ONE

**A075886 -- The People v. Anthony L. Webb.**

Order Modifying Opinion; The Court: It is ordered that the opinion filed herein on January 6, 1998, be modified in the following particulars: (See Order) There is no change in the judgment. The petition for rehearing is denied. Swager, J. (Not for Publication.)

**A077175 -- The People v. Jack Rudy.**

The order of commitment is affirmed. Stein, J. We concur: Strankman, P.J., Swager, J. (Not for Publication.)

**A078753 -- In re the Marriage of Georgia J. Fink and Robert A. Fink.**

The order apportioning attorney fees and costs is affirmed. Stein, Acting P.J. We concur: Dossee, J., Swager, J. (Not for Publication.)

DIVISION TWO

**A075045 -- Maria Carmen Ramirez Valero v. Home Depot U.S.A., Inc.  
et al.**

The judgment is affirmed. Kline, P.J. We concur: Haerle, J., Ruvolo, J. (Not for Publication.)

Friday, January 30, 1998 (continued)

DIVISION THREE

**A077062 -- The People v. William Eugene Mincey II.**

**A080021 -- In re William Eugene Mincey II on Habeas Corpus.**

Judgment affirmed and Writ denied. Walker, J. We concur: Phelan, P.J., Parrilli, J. (Not for Publication.)

DIVISION FOUR

**A075566 -- The People v. Montrece Lamont Gordon.**

The judgment is affirmed. Hanlon, P.J. We concur: Poché, J., Reardon, J. (Not for Publication.)

**A076506 -- The People v. Kenneth Allen.**

**A080822 -- In re Kenneth Allen On Habeas Corpus.**

The judgment is affirmed. The petition for a writ of habeas corpus is denied. Hanlon, P.J. We concur: Reardon, J., McGuinness, J. (Not for Publication.)

**A076706 -- The People v. Hieu Chi Ly.**

We affirm the judgment. Reardon, J. We concur: Hanlon, P.J., Poché, J. (Not for Publication.)

**A077131 -- The People v. Steven Knotts.**

The judgment is affirmed. Hanlon, P.J. We concur: Poché, J., Reardon, J. (Not for Publication.)

Friday, January 30, 1998 (continued)

**A077797 -- The People v. Gary Thomas Ramsey.**

Judgment affirmed. Reardon, J. We concur: Hanlon, P.J., Poché, J. (Not for Publication.)

**A078445 -- The People v. Arnel Bobby Williams.**

Judgment affirmed. Reardon, J. We concur: Hanlon, P.J., Poché, J. (Not for Publication.)

**A079020 -- The People v. Roman Gutierrez.**

The judgment is affirmed. Hanlon, P.J. We concur: Reardon, J., McGuinness, J. (Not for Publication.)

**A079590 -- The People v. Anthony Szeto.**

The judgment is affirmed. Hanlon, P.J. We concur: Reardon, J., McGuinness, J. (Not for Publication.)

**A080241 -- The People v. Michael Antonio Gomez.**

The judgment is affirmed. Poché, J. We concur: Hanlon, P.J., Reardon, J. (Not for Publication.)

**A080770 -- In re Arnel Bobby Williams on Habeas Corpus.**

The petition for writ of habeas corpus is denied without prejudice to the filing of a petition directed to the trial court. Hanlon, P.J.

DIVISION FIVE

**A079021 -- The People v. Benjamin Ferreira.**

The judgment is affirmed. Haning, J. We concur: Peterson, P.J., Jones, J. (Not for Publication.)